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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,807	11/11/2008	Rosie L. Burnell	CCS5006USPCT	5362
27777	7590	08/19/2011		
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			EXAMINER SCHMIDT, EMILY LOUISE	
			ART UNIT 3767	PAPER NUMBER
			NOTIFICATION DATE 08/19/2011	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jnjuspatent@corus.jnj.com  
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# Office Action Summary

**Application No.**

10/578,807

**Applicant(s)**

BURNELL ET AL.

**Examiner**

EMILY SCHMIDT

**Art Unit**

3767

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 August 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 02 August 2011.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species B in the reply filed on 02 August 2011 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). No claims are currently withdrawn.

### ***Information Disclosure Statement***

2. The information disclosure statement filed 02 August 2011 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because a number of the PgPubs appear to have incorrect numbers, see entries on pages 13, 15, 17, 18, and 19, PgPub numbers should have seven digits after the backslash. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

### ***Drawings***

3. The drawings are objected to because Figs. 4-8 are in grayscale and the features are indistinguishable. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in

reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it exceeds 150 words. Correction is required. See MPEP § 608.01(b).

6. The disclosure is objected to because of the following informalities:

Pg. 6 lines 23 "32" is believed to be "132".

Appropriate correction is required.

### ***Claim Objections***

7. Claims 10, 12, and 13 are objected to because of the following informalities: claim 10 is currently written to depend from itself, it is believed to be correctly dependent on claim 9.

Appropriate correction is required.

8. Claims 19-21 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 19-21 appear to repeat the claimed projection recited in claims 17 and 18.

### ***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Bitdinger et al. (US 5,478,316).

With regard to claim 1, Bitdinger et al. teach an injection device comprising: a housing (Fig. 3 member 12) adapted to receive a syringe (Fig. 3 member 30) having a discharge nozzle and having a boot that covers its discharge nozzle (Figs. 3 and 4 boot 36), so that the syringe is movable between a retracted position in which the discharge nozzle is contained within the housing and an extended position in which the discharged nozzle extends from the housing through an exit aperture (see transition in Figs. 5 and 6); a releasable locking mechanism that retains the syringe in its retracted position (Fig. 3 interaction between 28A and 66B, Col. 5 lines 40-60); and a housing closure member that can occupy a first position, in which it locates on the housing and prevents the locking mechanism from being released, and a second position, in which it does not prevent the locking mechanism from being released, the first position of the housing closure member being one in which it engages the boot, so that movement of the housing closure member to its second position results in removal of the boot from the syringe (Fig. 4 closure member 16).

With regard to claims 2-4, see Figs. 3-4 member 16.

With regard to claim 5, actuator 66C (Fig. 3), drive 46 (Fig. 3).

With regard to claim 6, biasing member 56 (Fig. 3), return member 40 (Fig. 3).

With regard to claims 7-10, release mechanism 28 (Fig. 3, see transition Fig. 3 to Fig. 6).

With regard to claim 11, see Col. 5 lines 55-60 28A and 66B move from engaged to disengaged.

With regard to claims 12 and 13, see ramped surface of 66B (Fig. 9 which engages in opening in 28 between 28A and generally 28C (Fig. 9).

With regard to claim 14, the trigger is taken as 58 see transition from 5 to 6 and disengages 46 with interlock member 60.

With regard to claim 15, the trigger is taken as 58 see transition from 5 to 6 and disengages 46, interlock member 28.

With regard to claim 16, see lock 60 (Figs. 5 and 6).

For the purposes of claims 17-21, the trigger is instead taken as 66 with projection 66B and aperture on the interlock member formed by 28A (Fig. 3), this alternate interpretation can also be applied to the parent claims. As such the releasable locking member of claim 1 in the alternate interpretation is taken to be the interaction between 60 and 52 (Figs. 5 and 6).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMILY SCHMIDT whose telephone number is (571)270-3648. The examiner can normally be reached on Monday through Thursday 7:00 AM to 4:30 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Emily Schmidt/  
Examiner, Art Unit 3767  
/KEVIN C. SIRMONS/  
Supervisory Patent Examiner, Art Unit 3767